

RESOLUTION NUMBER 2010-029

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A PARKING VARIANCE FOR PROPERTY LOCATED AT 810 DUVAL STREET (RE# 0001694-000000), PURSUANT TO SECTION 108-572(9), AND SECTION 108-573(c) 1 and 2 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-391 of the Code allows applicants to seek a variance to the Land Development Regulations from the Planning Board; and

WHEREAS, the applicant has requested an expansion of the existing commercial floor area of 42 square feet for outdoor consumption area of a proposed bar and lounge in the HRCC-3 zoning district which is also located within the historic commercial pedestrian oriented area ; and

WHEREAS, Section 108-573(c) 1 and 2 requires that if a commercial structure located within the historic commercial pedestrian oriented area is the subject of a change of commercial use, and additional floor area is added and/or was built after 1998, and converted to another use requiring additional parking, the off-street parking regulations apply; and

WHEREAS, Section 108-572(9) of the Code of Ordinances provides per 45 square feet of consumption area, one (1) vehicle parking space is required, and an additional 25% of the required vehicular parking spaces be required for bicycles; and


Chairman

Planning Director

WHEREAS, the applicant requested an expansion of consumption area for a total of 42 square feet triggering the need for a variance for one parking space; and



WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on August 19, 2010; and

WHEREAS, the Planning Board finds that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures or buildings in the same district; and

WHEREAS, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

WHEREAS, the Planning Board finds that granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and

WHEREAS, the Planning Board finds that literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary

 Chairman
 Planning Director

and undue hardship on the applicant; and

WHEREAS, the Planning Board finds that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the grant of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare; and

WHEREAS, the Planning Board finds that no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and

WHEREAS, the Planning Board finds that the applicant has demonstrated a "good neighbor policy" by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by those neighbors;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

 Chairman
 Planning Director

Section 2. A variance request for one parking space for new commercial floor area, in the Historic Residential Commercial Core - Duval Street Oceanside (HRCC-3) zoning district, for property located at 810 Duval Street, per Section 108-572(9) and Section 108-573(c)1 and 2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida (RE # 00016940-000000), as shown on the attached plans dated August 5, 2010, with the following conditions:

1. The variance is contingent upon conditional use approval, including associated conditions.

Section 3. It is a condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within two years after the date hereof; and further, that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

Section 4. The failure to submit a full and complete application for permits for new construction for which this variance is wholly or partly necessary, or the failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City


Chairman

Planning Director

building permit issued upon timely application as described in Section 3 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

Section 5. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 6. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.


Section 7. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.


Chairman

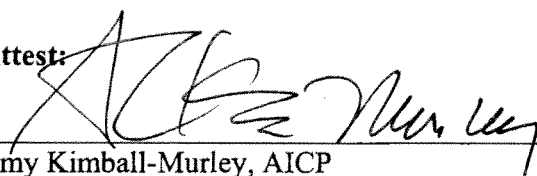
Planning Director

Read and passed on first reading at a regular meeting held this 19th day of August, 2010.

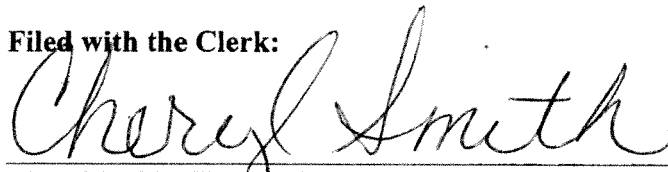
Authenticated by the Chairman of the Planning Board and the Planning Director.


Richard Kfitenick, Chairman
Key West Planning Board



9/1/2010
Date

Attest: 
Amy Kimball-Murley, AICP
Planning Director

9/2/2010
Date

Filed with the Clerk:

Cheryl Smith, City Clerk

9-2-10
Date

 Chairman
 Planning Director

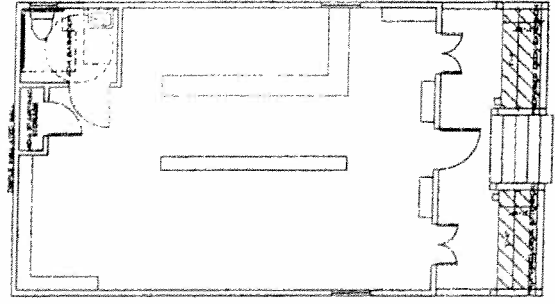
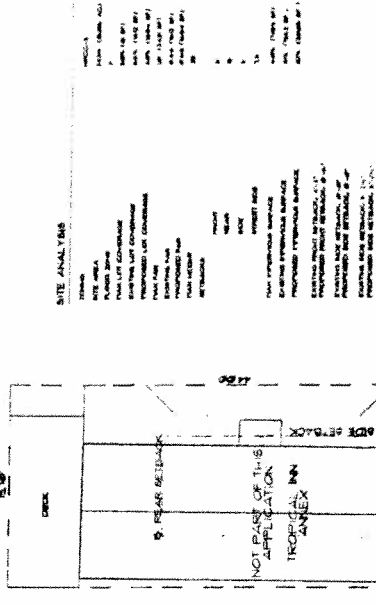


810 Duval Street

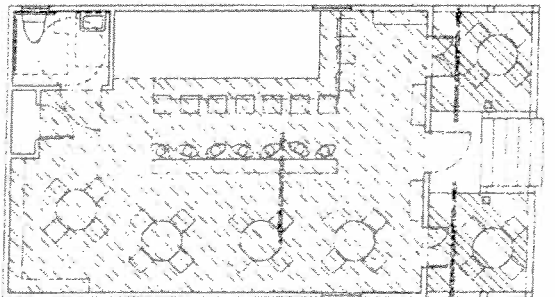
THOMAS E. POPE, P.A. ARCHITECT

DATE: 04/10/10
BY: TEP
REVISION:

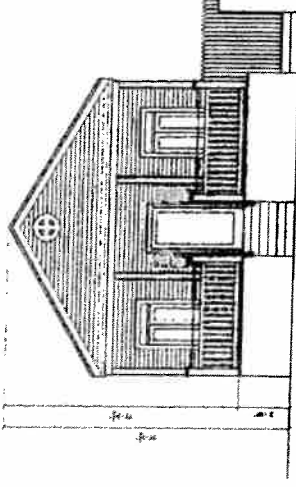
A1



Floor Plan



Consumption Area



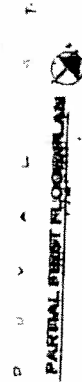
Front Elevation

Action
9/2/2010

RMK
2/1/2010



1. The above-mentioned work is not a study of the
 2. work of the Department of the Interior.
 3. It is a study of the work of the Department of the Interior.
 4. It is a study of the work of the Department of the Interior.
 5. It is a study of the work of the Department of the Interior.



AC 9/2/2010

RWK
9/1/2010